

1 A bill to be entitled

2 An act relating to liens; amending s. 679.705, F.S.;
3 extending the effective date of a financing statement
4 filed under previous law; amending s. 713.135, F.S.;
5 revising certain notice of commencement and applicability
6 of lien requirements for certain authorities issuing
7 building permits; prohibiting private providers performing
8 inspection services from performing or approving certain
9 inspections under certain circumstances; increasing a
10 threshold amount for certain application requirement
11 exemptions; prohibiting issuing authorities from requiring
12 recordation of a notice of commencement for certain
13 purposes; authorizing fees for furnishing copies of
14 certain statements; authorizing authorities issuing
15 building permits to accept permit applications
16 electronically; requiring an electronic submission
17 statement on building permit applications; requiring
18 provision of Internet access; amending s. 713.18, F.S.;
19 providing for electronic evidence of delivery of notices
20 required by the Construction Lien Law; amending s. 713.35,
21 F.S.; revising provisions relating to the making or
22 furnishing of false statements on certain construction
23 documents; providing penalties; providing effective dates.

24
25 Be It Enacted by the Legislature of the State of Florida:
26

27 Section 1. Effective upon this act becoming a law,
28 subsection (3) of section 679.705, Florida Statutes, is amended
29 to read:

30 679.705 Effectiveness of action taken before effective
31 date.--

32 (3) This act does not render ineffective an effective
33 financing statement that, before this act takes effect, is filed
34 and satisfies the applicable requirements for perfection under
35 the law of the jurisdiction governing perfection as provided in
36 s. 679.103, Florida Statutes 2000. However, except as otherwise
37 provided in subsections (4) and (5) and s. 679.706, the
38 financing statement ceases to be effective at the earlier of:

39 (a) The time the financing statement would have ceased to
40 be effective under the law of the jurisdiction in which it is
41 filed; or

42 (b) December 31 ~~June 30~~, 2006.

43 Section 2. Paragraphs (b) and (d) of subsection (1) and
44 subsections (4) and (6) of section 713.135, Florida Statutes,
45 are amended, and paragraph (e) is added to subsection (1) of
46 that section, to read:

47 713.135 Notice of commencement and applicability of
48 lien.--

49 (1) When any person applies for a building permit, the
50 authority issuing such permit shall:

51 (b) Provide the applicant and the owner of the real
52 property upon which improvements are to be constructed with a
53 printed statement stating that the right, title, and interest of

54 | the person who has contracted for the improvement may be subject
55 | to attachment under the Construction Lien Law. The Department of
56 | Business and Professional Regulation shall furnish, for
57 | distribution, the statement described in this paragraph, and the
58 | statement must be a summary of the Construction Lien Law and
59 | must include an explanation of the provisions of the
60 | Construction Lien Law relating to the recording, and the posting
61 | of copies, of notices of commencement and a statement
62 | encouraging the owner to record a notice of commencement and
63 | post a copy of the notice of commencement in accordance with s.
64 | 713.13. The statement must also contain an explanation of the
65 | owner's rights if a lienor fails to furnish the owner with a
66 | notice as provided in s. 713.06(2) and an explanation of the
67 | owner's rights as provided in s. 713.22. The authority that
68 | issues the building permit must obtain from the Department of
69 | Business and Professional Regulation the statement required by
70 | this paragraph and must mail, deliver by electronic mail or
71 | other electronic format or facsimile, or personally deliver that
72 | statement to the owner or, in a case in which the owner is
73 | required to personally appear to obtain the permit, provide that
74 | statement to any owner making improvements to real property
75 | consisting of a single or multiple family dwelling up to and
76 | including four units. However, the failure by the authorities to
77 | provide the summary does not subject the issuing authority to
78 | liability.

79 | (d) Furnish to the applicant two or more copies of a form
80 | of notice of commencement conforming with s. 713.13. If the

81 | direct contract is greater than \$2,500, the applicant shall file
82 | with the issuing authority prior to the first inspection either
83 | a certified copy of the recorded notice of commencement or a
84 | notarized statement that the notice of commencement has been
85 | filed for recording, along with a copy thereof. In the absence
86 | of the filing of a certified copy of the recorded notice of
87 | commencement, the issuing authority or a private provider
88 | performing inspection services may ~~shall~~ not perform or approve
89 | subsequent inspections until the applicant files by mail,
90 | facsimile, hand delivery, or any other means such certified copy
91 | with the issuing authority. The certified copy of the notice of
92 | commencement must contain the name and address of the owner, the
93 | name and address of the contractor, and the location or address
94 | of the property being improved. The issuing authority shall
95 | verify that the name and address of the owner, the name of the
96 | contractor, and the location or address of the property being
97 | improved which is contained in the certified copy of the notice
98 | of commencement is consistent with the information in the
99 | building permit application. The issuing authority shall provide
100 | the recording information on the certified copy of the recorded
101 | notice of commencement to any person upon request. This
102 | subsection does not require the recording of a notice of
103 | commencement prior to the issuance of a building permit. If a
104 | local government requires a separate permit or inspection for
105 | installation of temporary electrical service or other temporary
106 | utility service, land clearing, or other preliminary site work,
107 | such permits may be issued and such inspections may be conducted

108 without providing the issuing authority with a certified copy of
 109 a recorded notice of commencement or a notarized statement
 110 regarding a recorded notice of commencement. This subsection
 111 does not apply to a direct contract to repair or replace an
 112 existing heating or air-conditioning system in an amount less
 113 than \$7,500 ~~\$5,000~~.

114 (e) Not require that a notice of commencement be recorded
 115 as a condition of the application for or processing or issuance
 116 of a building permit. However, this paragraph does not modify or
 117 waive the inspection requirements set forth in this subsection.

118 (4) The several boards of county commissioners, municipal
 119 councils, or other similar bodies may by ordinance or resolution
 120 establish reasonable fees for furnishing copies of the forms and
 121 the printed statement provided in ~~paragraphs~~ paragraph (1) (b)
 122 and (d) in an amount not to exceed \$5 to be paid by the
 123 applicant for each permit in addition to all other costs of the
 124 permit; however, no forms or statement need be furnished,
 125 mailed, or otherwise provided to, nor may such additional fee be
 126 obtained from, applicants for permits in those cases in which
 127 the owner of a legal or equitable interest (including that of
 128 ownership of stock of a corporate landowner) of the real
 129 property to be improved is engaged in the business of
 130 construction of buildings for sale to others and intends to make
 131 the improvements authorized by the permit on the property and
 132 upon completion will offer the improved real property for sale.

133 (6) (a) In addition to any other information required by
 134 the authority issuing the permit, the building permit
 135 application must be in substantially the following form:
 136

137 Tax Folio No. _____

138 BUILDING PERMIT APPLICATION

139
 140 Owner's Name

141 Owner's Address

142 Fee Simple Titleholder's Name (If other than owner)

143 Fee Simple Titleholder's Address (If other than owner)

144 City

145 State _____ Zip _____

146 Contractor's Name

147 Contractor's Address

148 City

149 State _____ Zip _____

150 Job Name

151 Job Address

152 City _____ County _____

153 Legal Description

154 Bonding Company

155 Bonding Company Address

156 City _____ State _____

157 Architect/Engineer's Name

158 Architect/Engineer's Address

159 Mortgage Lender's Name

160 Mortgage Lender's Address

161

162 Application is hereby made to obtain a permit to do the
 163 work and installations as indicated. I certify that no work or
 164 installation has commenced prior to the issuance of a permit and
 165 that all work will be performed to meet the standards of all
 166 laws regulating construction in this jurisdiction. I understand
 167 that a separate permit must be secured for ELECTRICAL WORK,
 168 PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS,
 169 TANKS, and AIR CONDITIONERS, etc.

170

171 OWNER'S AFFIDAVIT: I certify that all the foregoing information
 172 is accurate and that all work will be done in compliance with
 173 all applicable laws regulating construction and zoning.

174

175

176 WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF
 177 COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO
 178 YOUR PROPERTY.

179

180

181 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR
 182 AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

183

184 (Signature of Owner or Agent)

185 (including contractor)

186 STATE OF FLORIDA

187 COUNTY OF _____

188

189

190 Sworn to (or affirmed) and subscribed before me this _____

191 day of _____, (year) , by (name of person making statement)

192 .

193

194 (Signature of Notary Public - State of Florida)

195 (Print, Type, or Stamp Commissioned Name of Notary Public)

196

197 Personally Known _____ OR Produced Identification _____

198

199 Type of Identification Produced _____

200 (Signature of Contractor)

201

202

203 STATE OF FLORIDA

204 COUNTY OF _____

205

206

207 Sworn to (or affirmed) and subscribed before me this _____

208 day of _____, (year) , by (name of person making statement)

209

210

211 (Signature of Notary Public - State of Florida)

212 (Print, Type, or Stamp Commissioned Name of Notary Public)

213

214 Personally Known _____ OR Produced Identification _____

215

216 Type of Identification Produced _____

217

218 (Certificate of Competency Holder)

219

220 Contractor's State Certification or Registration No. _____

221

222 Contractor's Certificate of Competency No. _____

223

224 APPLICATION APPROVED BY

225 _____ Permit Officer

226

227 (b) Consistent with the requirements of paragraph (a), an
 228 authority responsible for issuing building permits under this
 229 section may accept a building permit application in an
 230 electronic format, as prescribed by the authority. Building
 231 permit applications submitted to the authority electronically
 232 must contain the following additional statement in lieu of the
 233 requirement in paragraph (a) that a signed, sworn, and notarized
 234 signature of the owner or agent and the contractor be part of
 235 the owner's affidavit:

236

237 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of
 238 perjury, I declare that all the information contained in this
 239 building permit application is true and correct.

240

241 (c) An authority responsible for issuing building permit
 242 applications which accepts building permit applications in an
 243 electronic format shall provide public Internet access to the
 244 electronic building permit applications in a searchable format.

245 Section 3. Paragraph (b) of subsection (1) of section
 246 713.18, Florida Statutes, is amended to read:

247 713.18 Manner of serving notices and other instruments.--

248 (1) Service of notices, claims of lien, affidavits,
 249 assignments, and other instruments permitted or required under
 250 this part, or copies thereof when so permitted or required,
 251 unless otherwise specifically provided in this part, must be
 252 made by one of the following methods:

253 (b) By sending the same by registered or certified mail,
 254 with postage prepaid, or by overnight or second-day delivery
 255 with evidence of delivery, which may be in an electronic format.

256 1. If a notice to owner, a notice to contractor under s.
 257 713.23, or a preliminary notice under s. 255.05 is mailed by
 258 registered or certified mail with postage prepaid to the person
 259 to be served at any of the addresses set forth in subparagraph
 260 2. within 40 days after the date the lienor first furnishes
 261 labor, services, or materials, service of that notice is
 262 effective as of the date of mailing if the person who served the
 263 notice maintains a registered or certified mail log that shows
 264 the registered or certified mail number issued by the United
 265 States Postal Service, the name and address of the person
 266 served, and the date stamp of the United States Postal Service
 267 confirming the date of mailing or if the person who served the

268 notice maintains electronic tracking records generated through
269 use of the United States Postal Service Confirm service or a
270 similar service containing the postal tracking number, the name
271 and address of the person served, and verification of the date
272 of receipt by the United States Postal Service.

273 2. If an instrument served pursuant to this section to the
274 last address shown in the notice of commencement or any
275 amendment thereto or, in the absence of a notice of
276 commencement, to the last address shown in the building permit
277 application, or to the last known address of the person to be
278 served, is not received, but is returned as being "refused,"
279 "moved, not forwardable," or "unclaimed," or is otherwise not
280 delivered or deliverable through no fault of the person serving
281 the item, then service is effective on the date the notice was
282 sent.

283 Section 4. Section 713.35, Florida Statutes, is amended to
284 read:

285 713.35 Making or furnishing false statement.--Any person,
286 firm, or corporation who knowingly and intentionally makes or
287 furnishes to another person, firm, or corporation, ~~a written~~
288 ~~statement in the form of~~ an affidavit, a waiver or release of
289 lien, or other document, whether or not under oath, containing
290 false information about the payment status of subcontractors,
291 sub-subcontractors, or suppliers in connection with the
292 improvement of real property in this state, knowing that the one
293 to whom it was furnished might rely on it, and the one to whom
294 it was furnished will part with draw payments or final payment

295 | relying on the truth of such statement as an inducement to do so
296 | commits ~~is guilty of~~ a felony of the third degree, punishable as
297 | provided in s. 775.082 or s. 775.083. A state attorney or the
298 | statewide prosecutor, upon the filing of an indictment or
299 | information against a contractor, subcontractor, or sub-
300 | subcontractor which charges such person with a violation of this
301 | section, shall forward a copy of the indictment or information
302 | to the Department of Business and Professional Regulation. The
303 | Department of Business and Professional Regulation shall
304 | promptly open an investigation into the matter and, if probable
305 | cause is found, shall furnish a copy of any investigative report
306 | to the state attorney or statewide prosecutor who furnished a
307 | copy of the indictment or information and to the owner of the
308 | property which is the subject of the investigation.

309 | Section 5. Except as otherwise expressly provided in this
310 | act, this act shall take effect October 1, 2006.